

EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

CONSUME, ET AL,)
Plaintiffs,))
-V-) CIVIL DOCKET NO.
) 01-12257-PBS
ABBOTT LABORATORIES, ET AL,)
)
Defendants.)

MOTION HEARING
BEFORE THE HONORABLE MARIANNE B. BOWLER
UNITED STATES MAGISTRATE JUDGE

January 31, 2008

Boston, Massachusetts

APPEARANCES ON PAGE 2

Proceedings recorded by electronic sound recording,
transcript produced by Apex Reporting.

1 isolate the material. They brought in a high level CMS
2 official to assist with the document review; to look for
3 deliberative process type material.

4 And it just -- but the level of burden associated
5 with that, going though on a page-by-page basis, persuaded
6 us that it was better to seek -- to simply resist production
7 of that very narrow class of material.

8 And we made it very clear that at every stage to
9 -- exactly what we weren't producing.

10 We fully expected a motion to compel. We told
11 them exactly what we wanted them to produce; what we were
12 going to do in terms of logging it; and this motion
13 resulted.

14 So, it's just that there's a burden to go on a
15 page-by-page log because of the breadth -- this is not going
16 -- the idea that there are going to be documents in there,
17 the policy of CMS does not established, was not developed by
18 reference to Abbott's water product.

19 The idea that we're going to find material in
20 there that corresponds to was covered by the very narrow
21 language of Judge Saris' November 9th ruling, is just highly
22 unlikely; the last place we've looked for it at CMS.

23 What is of concern to Abbott is because it goes to
24 issues that have already been decided in this case and
25 decided frankly, against that Abbott's interest.